

Notice of Allowability

Application No.

10/528,986

Examiner

Erica E. Cadugan

Applicant(s)

SIMM ET AL.

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE filed 10/22/07 and interview of 12/19/07.
2. ☒ The allowed claim(s) is/are 1-4,6,8, 10-12,14,15,17-22 and 24-26.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☒ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Ilya Zborovsky and Mr. Michael Striker on December 19, 2007.

The application has been amended as follows:

1. (currently amended) A suction device for a power tool (10a, 10b) comprising a dust container (12a-12c); a suction head (14a-14c) to be placed on a work piece (16a-16b), wherein the dust container (12a-12c) is integrated in the suction head (14a-14c); a bearing unit (46a-46c, 48a) by which the suction head (14a-14c) with the integrated dust container (12a-12c) is supportable on a housing (26a-26b) of the power tool (10a, 10b) such that when the bearing unit is fixedly supported on the housing, the suction head (14a-14c) with the integrated dust container (12a-12c) is displaceable relative to the housing along a working direction (24a-24c) of the power tool, and also including a suction duct which directs air flow from the suction head into the housing, and wherein the suction head (14a-14c) includes an opening through which a tool bit (32a, 32b) drivable by the power tool is capable of being guided in at least one operating state of the power tool.

Claim 9 has been canceled.

In claim 10, line 1, "Claim 9" has been changed to --Claim 1--.

In claim 11, lines 1-2, "Claim 9" has been changed to --Claim 1--.

2. The following is an examiner's statement of reasons for allowance:

As filed in the RCE of 10/2007, Examiner agrees that the previously-applied Ege and Cuneo references, as well as the discussed BE 1009324 and U.S. Pat. No. 4,184,226 to Loevenich references, were overcome by the amendments to claim 1.

It is noted that the Ege and Cuneo references were discussed in detail in the final rejection mailed July 20, 2007, and BE '324 was discussed briefly on pages 13-14 of the final rejection mailed July 20, 2007. The Loevenich reference was discussed briefly on page 16 of the non-final office action mailed January 29, 2007.

Firstly, re the Ege reference, it is noted that Ege et al. does not teach that the "suction head with integrated dust container" is "supportable on a housing of the power tool such that the suction head with the integrated dust container is displaceable relative to the housing" (of the "power tool", as previously claimed) "along a working direction of the power tool" as set forth in independent claim 1, noting that when the suction head with integrated dust container is supported on the power tool housing via the structure 19, 19' shown in the figure, no displacement of the suction head with integrated dust container can occur. Furthermore, note that the element 13 of the suction head 1 extends so as to enclose the fan or suction wheel 17 (see the figure). In other words, the suction wheel 17 is located within the suction head 1 and not in the housing of power tool 2. Thus, noting the air flow shown by the arrows in the figure, Ege does not teach any "suction duct which directs air flow from the suction head into the housing" (wherein the "housing" has been previously set forth in the claims as being "of the power tool", and noting that the suction head with integrated dust container is claimed as being supportable on the power tool housing) as set forth in independent claim 1.

Also, there is no combinable teaching in the prior art of record that would reasonably and absent impermissible hindsight motivate one having ordinary skill in the art to so modify the teachings of Ege (re the "suction duct, further note that there is no reason to have such a suction duct directing air flow into the housing of tool 2 since the fan 17 is not located within the housing of 2), and thus, for at least the foregoing reasoning, Ege does not render obvious the present invention as set forth in independent claim 1.

Re Cuneo, Cuneo does not teach that when the "bearing unit" (including at least collar element 16) that serves to support the "suction head" 10 on the housing of the power tool 38 (Figures 1, 2, col. 2, lines 44-48) is "fixedly supported" on the power tool housing, "the suction head with the integrated dust container" (10 with integrated dust container 34) is "displaceable relative to the housing along a working direction of the power tool" as set forth in independent claim 1.

Additionally, Cuneo does not teach any "suction duct which directs air flow from the suction head into the housing", noting that the suction is created by a motor 14 driving a rotor 13 within portion 11 of the "suction head" 10. Element or "duct" 19 serves to direct air flow from one portion of the suction head 10 into another portion (i.e., the integrated dust container 34) of the suction head 10, rather than "into the housing" of the power tool 38.

Also, there is no combinable teaching in the prior art of record that would reasonably and absent impermissible hindsight motivate one having ordinary skill in the art to so modify the teachings of Cuneo, and thus, for at least the foregoing reasoning, Cuneo does not render obvious the present invention as set forth in independent claim 1.

Re the BE '324 and Loevenich references, Examiner agrees with Applicants' assertions that the feature of the "suction duct which directs air flow from the suction head" (which includes the integrated dust container) "into the housing" (of the power tool on which the suction head is supported) as set forth in independent claim 1, nor is there any combinable teaching in the prior art of record that would reasonably and absent impermissible hindsight motivate one having ordinary skill in the art to so modify the teachings of either BE '324 or Loevenich, and thus, for at least this reasoning, neither BE '324 nor Loevenich renders obvious the present invention as set forth in independent claim 1.

Additionally, re GB 2247852, note that GB '852 teaches a suction device for a power tool in the form of a drill 11. GB '852 additionally teaches the use of a "suction head" including an integrated "dust container" having opening 1 (Figure 7, additionally noted that GB '852 explicitly calls the member having opening 1 a "container", see page 5, first paragraph, and particularly, lines 4-6, for example). The "suction head" is "placed on" a workpiece 13 (see Figure 7, for example, noting the contact at the protruding portion 8 of the "suction head" with the workpiece 13). The cooling fan 17 of the power drill is used to create suction to suck the chips/dust/machined particles through the "suction head" (see at least page 5, second paragraph). Additionally, note that at least element 4 can be considered the claimed "bearing unit" by which the "suction head" (having the integrated dust container) is supported on the housing of the drill 11 (see Figure 7, also page 5, noting the bayonet connection 20 between element 4 and the housing of the power tool 11). Further note that the region 3 of the suction head telescopes into "bearing unit" 4 (see Figure 7, also page 5), and that the telescoping direction is in the "working direction" of the tool bit 12 of the tool 11 (see Figure 7), and thus, the "suction head with the

integrated dust container is displaceable relative to the housing” of the power tool 11 along the working direction of the power tool (working direction is generally horizontal as viewed in Figure 7). Further note that member 15 is a filter, and thus any of region 3, part of member 4, or the filter 15 itself, for example, can be considered to constitute the claimed “suction duct which directs air flow from the suction head into the housing” of the power tool, see Figure 7, noting the fan 17 sucks air through the suction head and through member 4 and through the filter, see also page 5.

However, GB ‘852 does not teach that the “suction head includes an opening through which a tool bit drivable by the power tool is capable of being guided in at least one operating state of the tool” as set forth in independent claim 1, noting the gap between the tool bit and the suction head shown in Figure 7, for example.

Also, there is no combinable teaching in the prior art of record that would reasonably and absent impermissible hindsight motivate one having ordinary skill in the art to so modify the teachings of GB ‘852, and thus, for at least the foregoing reasoning, GB ‘852 does not render obvious the present invention as set forth in independent claim 1.

The aforescribed prior art being representative of the closest prior art of record, for at least the foregoing reasoning, the prior art of record neither anticipates nor renders obvious the present invention as set forth in independent claim 1.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Comment re Priority

3. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has not been received by the United States Patent and Trademark Office. However, noting that this application is a national stage application filed under 35 USC 371 of international application PCT/DE04/01958, it is noted that the submission of such to the U.S.P.T.O. is not Applicant's burden. Examiner has, however, confirmed receipt of the certified copy by the IB, as such was filed in the international PCT application.

Conclusion

4. Any prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erica E. Cadugan whose telephone number is (571) 272-4474. The examiner can normally be reached on M-F, 6:30 a.m. to 4:00 p.m., alternate Fridays off.

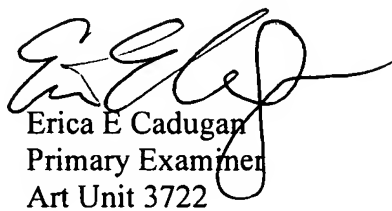
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica S. Carter can be reached on (571) 272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

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like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Erica E Cadogan
Primary Examiner
Art Unit 3722

eec
December 19, 2007